

CLIENT ALERT

Federal Court Grant of Motion for Summary Judgment to Employer Emphasizes Importance of Prompt Remedial Action in Response to Harassment Complaints

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A recent case before the U.S. District Court for the District of Maryland emphasizes the importance of employers' prompt remedial actions in addressing complaints of co-worker harassment.

In *EEOC v. Xerxes Corporation*, 2009 WL 4348589, No. 08-1882 (D. Md. Nov. 30, 2009), the EEOC filed suit on behalf of three employees who asserted that they were the targets of racial slurs and racially derogatory comments, pranks and practical jokes, and threatening notes from their co-workers. When they reported these incidents to Xerxes, the company conducted investigations, took disciplinary action against the alleged harassers, and thereafter conducted company-wide training on its anti-harassment policies and complaint procedures. Xerxes also reported the threatening notes to local law enforcement. The court found these steps sufficient to excuse Xerxes from liability and granted Xerxes' motion for summary judgment on multiple claims of co-worker racial harassment.

To avoid liability for racial harassment by one employee against another co-worker, employers must have reasonable procedures in place to receive complaints and must respond to such complaints with remedial action reasonably calculated to end the harassment. In this case, the court noted that "[w]hen Xerxes learned of harassment, it acted quickly and reasonably effectively to end it." With regard to several instances of alleged discrimination that were not reported, the court commented that "[i]nstances where Xerxes was unaware of the harassment were not caused by willful ignorance, but by the complainants' failure to notify Xerxes' management."

While *EEOC v. Xerxes Corp.* does not pave new ground, it serves as an important reminder to employers of the importance of a prompt and effective response to any harassment, retaliation, or discrimination complaint. Employers should ensure they have effective reporting procedures, should take proactive steps to ensure that all employees understand the anti-harassment policy and the complaint process, should promptly investigate all harassment claims, and, where there is a finding that harassment has occurred, should take action sufficient to stop the harassing conduct.

If you have any questions concerning this case or best practices in this area, please contact the attorneys listed to the left or your regular Crowell & Moring contact.

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